IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

Bail Appl..No. 7758 of 2007()

C.P.258/2007 OF J.F.C.M, KASARAGOD

: PETITIONER/ACCUSED

KARTHIAYANI, W/O.RAMAKRISHNAN,
EYYALLA, KOLATHUR, KASARAGOD.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT

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1. THE EXCISE RANGE OFFICER, KASARAGOD.

2. THE EXCISE RANGE OFFICER, BADIADKA
(RESPONDENTS 1 AND 2 REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM).

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.7758 of 2007

Dated this the 17th day of December 2007

O R D E R

Application for anticipatory bail. The petitioner faces indictment in a prosecution for offence punishable under the Kerala Abkari Act. She was allegedly found to keep in her possession 150 packets of Karnataka arrack each containing 100ml. She was intercepted and the contraband article was seized. The petitioner could not be arrested as the detecting party did not consist of any woman police official. Investigation is complete. Final report has already been filed. Cognizance has been taken. Committal proceedings has been registered. The petitioner apprehends imminent arrest in execution of coercive processes which have been issued against the petitioner consequent to the non-availability of the petitioner.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under

Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this bail application is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007